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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,162	09/08/2000	John C. Zurawski	068520.0102	3295

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Baker Botts LLP  
2001 Ross Avenue  
Dallas, TX 75201-2980

EXAMINER

BULLOCK JR, LEWIS ALEXANDER

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/658,162	<b>Applicant(s)</b> ZURAWSKI, JOHN C.	
	<b>Examiner</b> Lewis A. Bullock, Jr.	<b>Art Unit</b> 2126	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) *   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/8/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 and 11-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward a method for facilitating creation of a definition by providing a set of functions and preparing a project definition using the function definitions and input/output ports, i.e. input/output software code. The cited claims in effect is simply software code written on paper by a programmer and therefore is not directed to statutory subject matter.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of

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copending Application No. 09/658,840. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application 09/658,840 substantially discloses all of the limitations of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 09/658,239. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application 09/658,239 substantially discloses all of the limitations of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 09/658,237. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application 09/658,237 substantially discloses all of the limitations of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of copending Application No. 09/658,016. Although the conflicting claims are not identical,

they are not patentably distinct from each other because Application 09/658,016 substantially discloses all of the limitations of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 09/658,238. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application 09/658,238 substantially discloses the limitations of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,757,888. Although the conflicting claims are not identical, they are not patentably distinct from each other because Patent 6,757,888 substantially discloses all of the limitations of the claims.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over NOTANI (U.S. 6,397,191).

As to claim 1, NOTANI teaches a method for facilitating creation of a definition (workflow) for automated data processing (col. 14, lines 51-54), comprising the steps of: providing a set of predetermined function definitions (activities) which are different; and preparing a project definition expressed in a public communication protocol (JAVA , XML, CORBA) (col. 4, lines 8-14), the project definition (workflow) including: a plurality of function portions (data source / data destination) which each correspond to one of the function definitions (activities) in the set, and which each define at least one input port (accessor component / transformer component / transfer component) and at least one output port (another accessor component / another transformer component / another transfer component) that are functionally related (strung together) according to the corresponding function definition; a further portion which includes a source portion identifying a data source (data source) and defining an output port (accessor component / transformer component / transfer component of data source) through which data from the data source can be produced, and which includes a destination portion identifying a data destination (data destination) and defining an input port (accessor component / transformer component / transfer component of data destination) through which data can be supplied to the data destination; and binding information (form flows / data flow) which includes binding definitions that each associate a respective the input port with one of the output ports (col. 15, line 5 – col. 16, line 20). NOTANI also teaches that the workflow comprises objects associated with activities to

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be performed within the workflow which are deployed across enterprise boundaries to nodes on which associated activities are to be performed (col. 2, lines 26-38) and that there is no restriction to what the different activities of the workflow can do (col. 15, lines 1-5). However, NOTANI does not explicitly teach that the data is image data and that that one of the functions is used to process image data. Official Notice is taken in that it is well known in the art that there exists a workflow that process image data and that it would be obvious in view of NOTANI that when image data is sent through the object oriented workflow that it is transformed and/or transferred and displayed.

As to claim 2, NOTANI teaches the public communication protocol is the extensible Markup Language (XML) protocol (XML) (col. 4, lines 8-14).

As to claim 3, NOTANI teaches the function definitions (activities) implement a function which varies in dependence on control input (provided data); and wherein the preparing step includes the step of including in the project definition, for each the function portion therein that corresponds to the one of the function definitions, respective control information (provided data / event) for use as the control input (wherein the primitive components can read, write, or listen to sources and destinations of data / execute based on the received event) (col. 15, lines 10-35; col. 16, lines 21-35).

As to claim 4, NOTANI teaches the wherein the preparing step includes the step of including in the project definition a list (workflow) which identifies at least some of the function, source and destination portions (activities and their interactions), the project definition including for each the portion in the list a section which sets forth any the control information (provided data / event) for that portion, and a section which includes the binding definitions (form flows / data flows) for that portion (col. 15, lines 10-35; col. 16, lines 21-35).

As to claim 5, NOTANI teaches the preparing step includes the step of including in the project definition (workflow) a plurality of process definitions (sub-workflows) which each include a respective the list (activities and their interactions), the lists each including a subset of the function, source and destination portions, and the subsets being mutually exclusive (col. 15, lines 10-35; col. 16, lines 21-35; col. 13, line 54 – col. 14, line 5).

As to claim 14, NOTANI teaches the function cooperates with a separate processing application (sub-workflow) to perform an operation (col. 15, lines 10-35; col. 16, lines 21-35; col. 13, line 54 – col. 14, line 5). It would be obvious that since the data is image data that the application is an image application.



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As to claims 6-10 and 18, reference is made to a computer readable medium that corresponds to the method of claims 1-5 and 14 and is therefore met by the rejection to claims 1-5 and 14 above.

### ***Allowable Subject Matter***

11. Claims 15-17 contain allowable subject matter that would be allowable in independent form and containing a timely filed terminal disclaimer.
12. The following is a statement of reasons for the indication of allowable subject matter: The cited claims detail the operation of the function for manipulating image data that is found in any of the prior art of record or would be obvious to one skilled in the art. The cited functions are blurring the image and selecting from among a plurality of blurring techniques; expanding the image and selecting from among a plurality of colors to fill resulting added area; and performing a mathematical computation and selecting from a plurality of mathematical equations. None of the prior art of record disclose the cited functions or their operation in the workflow definition as disclosed and therefore the cited claims are allowable over the prior art of record.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

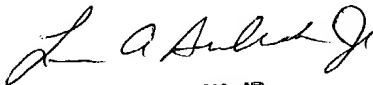
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis A. Bullock, Jr. whose telephone number is (703) 305-0439. In late-October, the examiner can be reached at (571) 272-3759. The examiner can normally be reached on Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (703) 305-9678. In late-October, the examiner can be reached at (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LEWIS A. BULLOCK, JR.  
PRIMARY EXAMINER

September 20, 2004